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EXAMINER	
GARG, YOGESH C	
ART UNIT	PAPER NUMBER
3625	

NOTIFICATION DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No.	Applicant(s)	
	09/838,133	VERCHERE, DAVID	
	Examiner	Art Unit	
	Yogesh C. Garg	3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *3/11/09 & 4/28/09*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-5,7,8,11-15,17 and 18* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-5,7,8,11-15,17 and 18* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. Amendments filed on 4/28/2009 [supplement amendment] and 3/11/2009 are entered. Claims 9 and 19 are canceled in the supplemental amendment. Claims 6, 10, 16 and 20 were previously canceled. Claims 1 and 11 were amended in the amendment filed 3/11/2009 and again claims 1 and 11 were amended in the supplemental amendment filed 4/28/2009. Currently claims 1-5,7,8,11-15,17 and 18 are pending for examination.

Response to Arguments

2. Applicant's arguments filed 4/28/2009 and 3/11/2009 have been fully considered but they are not fully persuasive.

In view of the current amendments to claim 1 previous rejection of claims 1-5, 7-8 under 35 USC 101 is with drawn.

The applicant's arguments filed 4/28/2009 that the current amendment " dynamically generating a product identifier using the product parameter identifying and pricing computer when the product is sourced, quoted or ordered, wherein the product identifier is defined by a combination of the product's one or more item parameters, one or more process parameters, one or more artwork parameters and said price" is supported by its originally fled disclosure is not persuasive for the following reasons:

Instant application 09/838133 [US PG-Pub 2001/0047312 A1], hereinafter '312 is a CIP of 09/441,204 which is now US Patent 7,127, 415 and is a non-provisional of provisional application 60/199,834 filed on April 26, 2000. None of these applications

disclose linking the assigned price to the branded product with one or more item parameters, one or more process parameters, one or more artwork parameters and generating a product identifier. The instant application teaches [see paragraphs 13 and 31 of '312] the item and process parameters are linked to create a SKU or other identifier when the product is sourced, quoted, ordered. The instant application does not teach linking or considering the assigned price with the item and process parameters to create a SKU or other identifier. The artwork parameter is considered part of the process parameters. The applicant has argued that the product identifier is unique to the parameters of a requested/ordered product and is transmitted back to the user from the special purpose computer in the form of a CG number as shown in Figs. 12 a and 12b and disclosed in paragraph 0051. The examiner agrees to this argument but does not accept the subsequent argument [see remarks, pages 12-13], " For example, the product identifier can be based on the quoted price of the branded product . The SKU is generated at the same time the requested product is priced quoted or ordered, making the price a mandatory factor in the product identifier.". The applicant's disclosure including the instant application and the parent applications do not disclose any algorithm or software linking or considering the assigned price at the time of the quote/order to the product identifier. The applicant further refers to US Patent 7,127,415, see col.4, lines 25-41 in support of the limitation "linking the assigned price to the branded product with one or more item parameters, one or more process parameters, one or more artwork parameters and generating a product identifier". The examiner respectfully disagrees. Col.4, lines 25-41 does not teach linking assigned

price by a pricing algorithm to an ordered/quoted/sourced product with item and process parameters to create/generate a product identifier by a computer. Patent '415 discloses a database storing data related to a vendor product, vendor pricing with quantity breaks, net set up costs, etc. , vendor service and imprinting information and a SKU is assigned to each vendor product for different product variations such as a blue pen would have a different SKU than a red pen. Col.4, lines 25-41 does not teach linking assigned price by a pricing algorithm to an ordered/quoted/sourced product with item and process parameters to create/generate a product identifier by a computer/processor.

Applicant's arguments with respect to prior art of rejection of claims under 35 USC 103 have been considered but are moot in view of the new ground(s) of rejection.

3. Examiner cites particular columns and line numbers in the references as applied to the claims below for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other relevant and related passages and figures may apply as well. It is respectfully requested that, in preparing responses, the applicant fully consider the other relevant and related passages and figures in the cited references as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4.1. Claims 1-5, 7, 11-15, 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Von Rosen in view of Bittel and in view of Turbide, David A; "Manufacturing systems", v 14n9 PP:84-90 Sep 1996 CODEN: MASYES ISSN: 0748-948X JRNL CODE MFS; extracted from Dialog, file# 15 on 5/4/2009;hereinafter Turbide.

Regarding claim 1, Von Rosen describes:

limitation of storing product parameter data on a data storage device such that the data storage device is accessible by a computer and a user interface device connected to a computer network [see FF 03, " Product database "98" and image database "100" represent the storage device storing product and process parameter data and this storage device is accessible by a user's interface device with GUI as shown in] and displaying on said user interface device a GUI having representations of said product parameter data obtained from said data storage device over said computer network [FF 4,5,6];

creating a request over said computer network for a branded product through an online interface wherein a user designates features for said branded product by selecting product parameter data displayed by the GUI and submits said features to

said computer [FF01, 06, 08A-b, 09A-c,]. Von Rosen shows that its sales system was for items including artwork process. Von Rosen dynamically made the customized products to order via online interface which required am automated manufacturing process (FF01, 02, 08A-b, 09A-c, 10A-B) inclusive of order number and job description to identify the order.

Bittel shows that it was known that pricing algorithms could be applied as markups over cost (Bittel 958:Right col., Markup Pricing). Bittel shows that it was known that pricing algorithms had to produce prices that exceeded the full cost of what was sold (FF 09). Thus, it was known that each cost component of production had to be measured and their sum had to be less than the price, and that one practice for deriving prices was for price to have been computed as a markup over cost (FF 10). Since von Rosen's manufacture relied on a customized dynamic process ordering products through online interface (FF08 & 09), which used both product and artwork, the costs for von Rosen's sales included costs for the item, the manufacturing process, and the artwork. Each would have to be measured to satisfy the dynamic pricing requirement of covering cost for online customized ordering. Thus the cost data would have been separated into that of the item, manufacturing process, and artwork) .

To satisfy known pricing practices over the last thirty years, one of ordinary skill would have stored a pricing algorithm in a database similar to other databases [FF 03] and applied a pricing algorithm based on the costs for the item, process and artwork. To so generate a price dynamically within an automated system such as von Rosen's requiring dynamically customized placing of orders online, one of ordinary skill would

have known the values for costs would have been provided via parameters (FF 05). These parameters would have had to be connected, i.e. linked, to support the pricing analysis required for the dynamically customized order subsequent to the calculation. Bittel shows that one of ordinary skill knew the importance of creating an item identifier to control the final product in a materials management system (FF 08) but is not explicit in creating a product identifier at the time when product is being ordered/quoted/ or sourced and after the price is determined of the said product.

Turbide, in his article, has discussed the problems faced in specifying products that is assigning identification to products which are not earlier predefined or products with many customizations and variations in situations occurring within assemble-to-order, make-to-order or engineer-to-order business segments [see at least Abstract] which is analogous to the problem faced by the applicant. In order to provide a solution to this problem Turbide has disclosed software operated configurators [see paragraphs 3 and 4 on page 2, "*Configuration software is designed to address difficulties in correctly specifying products that are either not completely pre-defined or products with many options or combinations. These type situations are generally within the assemble to-order (ATO), make-to-order, and engineer-to-order business segments. A configurator is computer software that supports both the engineering and the sales-order processing portions of the business by managing the specifications of a product to be sold and built. Typically, the configurator will establish a dialog with the sales order entry operator to ask pertinent questions and, based on the answers, will create a unique bill of material and routing for the product.* ***In addition, most configurators can furnish price and cost information immediately and accurately, while ensuring error-free bills and routings without engineering review.***). Turbide teaches that these software configurators helps both the designing and sales order processing by providing a template type interface prompting a consumer/operator to ask pertinent questions and then based on the

answers from the consumer/operator creates a unique product combining material parameters and process [routing for the product] parameters. The software configurators disclosed in Turbide are similar to the configurator disclosed in the applicant's provisional application 60/199,834 and the instant application. The configurators in Turbide, are designed to provide costing accurately and immediately based on the consumer's/operator's answers relating to his requirements and that implies that these configurators are using stored price algorithms just as the same disclosed in the applicant's invention. Turbide further teaches to provide a product definition/identification at the time of placing an order [which also covers at the time of quoting or sourcing] considering all variations of the product parameters as can be possible in situations occurring within assemble-to-order, make-to-order or engineer-to-order business segments, see page 4, " ***Configuration software users strive to address these problems with an "intelligent" system that administers the product-definition process while the order is being entered, ensuring accuracy and saving time and money***. *The configurator does this by means of a model that* ***incorporates all of the engineering knowledge and instructions necessary to define the bills of material and routing while staying within necessary design constraints***. *Furthermore, advanced configurators can "translate" customer or product functional requirements into product contents. For example, users could ask their customers "How much weight will the go-cart be carrying?" and "How fast do you want to go?" instead of "What size wheels?" and "How much horsepower?"* .

Thus, it would have been obvious to a person of ordinary skill in the art to have applied known pricing and inventory management practices to von Rosen to practice the online invention of making dynamically customized branded products requiring both

the items and artwork using an automated system as in claim 1 for the reasons provided by Bittel of good pricing and materials management practices and by Turbide of providing software configurators to provide automated costing/pricing of the customized products while being ordered and also to provide product definition/identification including all the knowledge related to the parameters of the bill of material [related to item parameters] and process parameters [related to artwork] and any other knowledge at the time of ordering which can include the cost or any other specification.

Regarding claim 2, Rosen/Bittel/Turbide discloses that the method of claim 1 wherein the step of separating the product further comprises the step of supplying an item template (see at least Rosen FIG.9B, which corresponds to supplying a template for an item, that is soda flavor).

Regarding claim 3, Rosen/Bittel/Turbide discloses that the method of claim 1 wherein the step of separating the product further comprises the step of supplying a process template (see at least Rosen FIG.8A-9A and 9C corresponds to providing a process template wherein the process is designing the label with the image).

Regarding claim 4, Rosen/Bittel/Turbide teaches that the method of claim 2 wherein the step of separating the product further comprises the step of creating an item definition page based on the item template (see at least Rosen FIG.9 B, which corresponds to the soda flavor bottle definition page based on the item template).

Regarding claim 5, Rosen/Bittel/Turbide teaches that the method of claim 3 wherein the step of separating the product further comprises the step of creating a process definition page based on the process template (see at least Rosen FIG.9C, which corresponds to the soda flavor bottle label image definition page based on the process template).

Regarding claim 7, Rosen/Bittel/Turbide shows that the method of claim 1 wherein the one or more parameters comprise description information (see at least Rosen Fig.3, " Product database 98", " Image database 100", and col.6, lines 50-67 which disclose that both product database 98 and image database 100 store descriptive information about products and images such as different types of flavor for sodas, see at least col.10, lines 10-18).

Regarding system claims 11-15, 17, they are parallel to the method claims 1-5, and 7 and are therefore, analyzed and rejected based on same rationale. It is to be noted that the software configurators provide template like means establishing a dialog with the order entry operator/consumer to ask pertinent questions about the product being ordered and, based on the answers, will create separately item parameters, that is bill of materials, and the artwork process parameters that is routing for the product.

4.2. Claims 8 and 18 are rejected under 35 U.S.C. 103(a) as being obvious over Rosen/Bittel/Turbide and further in view of Official Notice.

Regarding claim 8, Rosen/Bittel discloses a method for configurating one or more products as analyzed and discussed in claim above. Rosen does not disclose that in claim 1 the parameters comprise quantity break pricing information. However, the examiner takes an Official Notice that both the concept and the benefits of quantity break pricing information are notoriously old and well-known in selling and buying transactions because a quantity break motivates the buyer to purchase more in quantity, as he saves money, and at the same time benefits the seller for accruing increased revenue and also profits. Therefore, in view of the Official Notice, it would have been obvious to a person of an ordinary skill in the art at the time of the applicant's invention to have modified Rosen to incorporate the concept of providing a quantity break pricing information while selling soda bottles, because a quantity break will motivate the buyer to purchase more in quantity, as he saves money, and at the same time will benefit the seller for accruing increased revenue and also profits.

Regarding system claim 18, it is parallel to the method claim 8 and is therefore, analyzed and rejected based on same rationale.

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Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ferriter et al. (US Patent 5,109,337, see at least Abstract, Figs.

1-8, and col.5, lines 1-65) teaches separating a product into items/parts, process parameters and cost and then based upon the answers provided by a user requesting a product provides answers leading to the design of the required product and providing an item classification code to identify the specially/customized required product.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yogesh C. Garg whose telephone number is 571-272-6756. The examiner can normally be reached on Increased Flex/Hoteling.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Smith can be reached on 571-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Yogesh C Garg/
Primary Examiner, Art Unit 3625